

State of California  
BOARD OF EQUALIZATION  
SALES AND USE TAX REGULATIONS

**Regulation 1594. WATERCRAFT.**

*Reference:* Sections 6368, 6368.1, and 6421, Revenue and Taxation Code.

**(a) GENERAL EXEMPTIONS.** Tax does not apply to the sale of nor to the storage, use, or other consumption of watercraft which are used, leased to a lessee for use, or sold to persons for leasing to lessees for use either in interstate or foreign commerce, in commercial deep sea fishing, or in transporting persons or property to vessels or offshore drilling platforms located outside the territorial waters of this state.

(1) **INTERSTATE OR FOREIGN COMMERCE.** Tax does not apply if the watercraft for which the exemption is claimed is used either exclusively in interstate or foreign commerce involving the transportation of persons or property for hire or both in interstate or foreign commerce and in intrastate commerce provided the principal use of the watercraft is transportation for hire in interstate or foreign commerce. The exemption may apply to watercraft which operates between termini within the state, such as ferry boats or barges operating entirely within the state if they are principally used to transport interstate passengers or cargo and tugs that operate entirely within the state and are principally used to convoy or aid the departure or arrival of vessels to or from points outside the state.

**(A)** The tax applies with respect to watercraft making voyages both in interstate or foreign commerce and voyages that are exclusively in intrastate commerce where the principal use of the watercraft is in intrastate commerce.

**(B)** With respect to watercraft sold on or after January 1, 1987, it shall be presumed that the watercraft is not regularly used in the transportation for hire of property or persons if the annual gross receipts from such use of the watercraft do not exceed ten percent (10%) of the cost of the watercraft to the person using it, or twenty-five thousand dollars (\$25,000), whichever is less.

**(C)** With respect to watercraft leased on or after January 1, 1987, it shall be presumed that the watercraft is not regularly used in the transportation for hire of property or persons, if the annual gross receipts of the lessor from the lease of the watercraft to persons using it in this manner do not exceed ten percent (10%) of the cost of the watercraft to the lessor, or twenty-five thousand dollars (\$25,000), whichever is less.

**(D)** The presumptions explained in subdivisions (B) and (C) above may be rebutted by contrary evidence satisfactory to the board showing that the watercraft is regularly used in the transportation for hire of property or persons.

**(E)** When determining whether watercraft is regularly used by the owner or lessee in the transportation for hire of property or persons, the first 12-month period after the first functional use of the watercraft shall be used. Gross receipts from the transportation for hire of property or persons, whether in interstate or foreign commerce or in intrastate commerce, may be used to meet the minimum gross receipts requirements stipulated in subdivisions (B) and (C) above.

(2) **COMMERCIAL DEEP SEA FISHING.** Tax does not apply if the watercraft for which the exemption is claimed is used in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing if the principal use of the watercraft occurs outside the territorial waters of this state. It shall be rebuttably presumed that "persons who are regularly engaged in commercial deep sea fishing" do not include persons who have gross receipts from commercial deep sea fishing operations that total less than \$20,000 a year with respect to watercraft sold on or after July 29, 1991, and \$5,000 a year with respect to watercraft sold during the period January 1, 1980 through July 28, 1991. When determining whether a person has less than the minimum amount of \$5,000 or \$20,000 (as applicable) in gross receipts from commercial deep sea fishing operations, the first 12-month period after the first functional use of the watercraft shall be used if the person purchasing the watercraft was not engaged in commercial deep sea fishing at the time of purchase. If the person purchasing the watercraft is already engaged in commercial deep sea fishing operations, the person will not be considered to be regularly engaged in the business of commercial deep sea fishing unless receipts from

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commercial deep sea fishing operations aggregate at least the minimum amount during any consecutive 12-month period which includes the first operational use of the watercraft as to which exemption is claimed. Fish receipts from either commercial deep sea fishing within the territorial waters of this state or from commercial deep sea fishing outside the waters of California may be used to meet the minimum fish receipts requirements. The tax applies with respect to watercraft used in commercial deep sea fishing operations if the principal use occurs within the territorial waters of this state.

(3) **TRANSPORTING PERSONS OR PROPERTY TO VESSELS OR OFFSHORE DRILLING PLATFORMS.** Tax does not apply if the watercraft is used in transporting for hire persons or property to vessels or offshore drilling platforms located outside the territorial waters of this state provided that the watercraft is functionally used 80 percent or more of the time in such transportation activities.

**(b) USE OF WATERCRAFT.**

(1) **INTERSTATE OR FOREIGN COMMERCE.** In addition to the requirement that the watercraft be regularly used in the transportation for hire of property and persons, the watercraft for which the exemption is claimed must actually be used principally in interstate or foreign commerce. In determining whether a purchaser or a lessee of a watercraft is using that watercraft in interstate or foreign commerce, only that use of the watercraft by the purchaser or lessee during the first 12 consecutive months commencing with the first operational use of the watercraft will be considered. If the purchaser does not own the watercraft for 12 consecutive months commencing with the first operational use, then the period of time commencing with the first operational use that the purchaser owns the watercraft will be considered.

(2) **COMMERCIAL DEEP SEA FISHING.** In addition to the requirement that the watercraft be used by persons who are regularly engaged in commercial deep sea fishing, the watercraft as to which the exemption is claimed must itself actually be used principally in commercial deep sea fishing operations outside the territorial waters of this state. In determining whether a buyer or a lessee of a watercraft is using that watercraft in commercial deep sea fishing operations outside the territorial waters of this state, only that use of the watercraft by the purchaser or lessee during the first 12 consecutive months commencing with the first operational use of the watercraft will be considered. If the purchaser does not own the watercraft for 12 consecutive months commencing with the first operational use, then the period of time commencing with the first operational use that the purchaser owns the watercraft will be considered.

(3) **TRANSPORTING PERSONS OR PROPERTY TO VESSELS OR OFFSHORE DRILLING PLATFORMS.** In determining whether a purchaser or a lessee of a watercraft is using that watercraft in transporting for hire persons or property to vessels or offshore drilling platforms located outside the territorial waters of this state, only that functional use of the watercraft by the purchaser or lessee during the first 12 consecutive months commencing with the first operational use of the watercraft will be considered. If the purchaser does not own the watercraft for 12 consecutive months commencing with the first operational use, then the period of time commencing with the first operational use that the purchaser owns the watercraft will be considered.

(4) **FOR PURPOSES OF THIS REGULATION:**

(A) "Principal use" means more than one-half of the operational use during the test period.

(B) "Operational use" or "functional use" means the actual time during which the watercraft is operated and shall not include storage, modification, repair, or replacement.

**(c) COMPONENT PARTS OF WATERCRAFT.** The tax does not apply with respect to tangible personal property becoming a component part of watercraft, exempt under subdivision (a) of this regulation, in the course of constructing, repairing, cleaning, altering or improving that watercraft.

(1) **ITEMS INCLUDED.** To be considered a "component part" of a watercraft for purposes of the exemption the property must be an integral part of the watercraft, affixed or attached thereto in a substantial manner when in use. The following examples are illustrative only, and do not constitute a complete list:

The hull and all affixed property constituting an integral part thereof.

All property affixed or attached to the structure of the watercraft used while thus affixed or attached for navigation or operation, such as: radio transmitters, receivers and other radio equipment, radar equipment, intercommunication systems, winches, anchors, lifeboats, engines, generators, switchgear, compasses, indicators, levers, control and signal systems, lamps, chains and cables.

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All property affixed or attached to the structure of the watercraft used while thus affixed or attached for the comfort or convenience of the passengers and crew, such as: built-in bunks, furniture attached by bolts, screws or otherwise, including counters, shelves, stools, railing, stairs, partitions, doors, windows, window shades and curtains, awnings, hardware, stoves, sinks and other plumbing fixtures, and paint.

(2) **ITEMS EXCLUDED.** Property is not considered a component part of a watercraft for purposes, of the exemption if it is a kind commonly treated as expense items and is not affixed or attached to the watercraft in a substantial manner when in use. The following examples are illustrative only, and do not constitute a complete list:

Portable equipment, furniture, devices and other property, such as; chairs, deck chairs, table or floor radios, table or floor lamps, dishes and other utensils, tables, bedding, linen, mattresses, cots, athletic or recreational equipment (not affixed or attached), pictures, fire extinguishers (portable), tools, brooms, mops, rags, towels, oil, grease, soap, cleaning materials and other consumable supplies.

**(d) WATERCRAFT EXEMPTION CERTIFICATE.** The law provides that for the purposes of the proper administration of the sales and use tax and to prevent the evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. This presumption may be rebutted by the seller as to any sale of watercraft, or component parts of watercraft, by establishing to the satisfaction of the Board that the gross receipts from the sale are not subject to the tax or by timely taking a watercraft exemption certificate substantially in the form set forth below. The certificate shall relieve the seller from liability for the sales tax only if it is taken in good faith.

For special provisions affecting watercraft, see Regulation 1610 (18 CCR 1610), "Vehicles, Vessels and Aircrafts".

*History:* Adopted October 6, 1949.

Amended September 2, 1965. Amended and renumbered August 5, 1969, effective September 6, 1969.

Amended September 28, 1978, effective November 18, 1978. Amends (a); rennumbers (a) (3) (A), (B), (C) to (a) (1), (2), (3); adds (b) (1), (2), (3), (4); rennumbers (b) to (c); adds (d).

Amended February 6, 1980, effective March 29, 1980. In (a) (3), first sentence, added "by persons who are regularly engaged in commercial deep sea fishing," and added everything except the last sentence. In (b) (2) added a new first sentence. Added lines for more information on signature portion of exemption certificate.

Amended June 26, 1985, effective September 22, 1985. Adds new subdivision (b) (3) entitled "Transporting Persons or Property to Vessels or Offshore Drilling Platforms." This new subdivision explains the criteria to be used in determining whether a purchaser or lessee of a watercraft qualifies as using that watercraft in transporting for hire persons or property to vessels or offshore drilling platforms located outside the territorial waters of this state. Rennumbers the section entitled "For Purposes of This Regulation" from subdivision (b) (3) to subdivision (b) (4). In (B) of renumbered subdivision (b) (4), provides that the terms "functional use" and "operational use" are synonymous. Deletes subdivision (b) (4) (B) (4) since the provisions referring to the operative date of the test period are outdated and no longer necessary. In subdivision (c), deletes the explanation regarding the type of watercraft exempt from tax and instead provides a reference to subdivision (a) of the regulation. Rennumbers the section entitled "Watercraft Exemption Certificate" from subdivision (d) to subdivision (e) and adds new subdivision (d) entitled "Diesel Fuel Used in Operating Watercraft." New subdivision (d) provides that effective October 1, 1984, tax does not apply to the storage, use, or other consumption of diesel fuel used in operating watercraft in commercial deep sea fishing operations outside the territorial waters of the state. Sets forth the criteria for determining whether the operator is "regularly engaged in business", and whether the watercraft is "regularly operated outside the territorial waters of this state." Adds to the appendix an example of a diesel fuel exemption.

Amended October 7, 1987, effective December 25, 1987. In subdivision (a) (1), clarifies the fact that watercraft which operate entirely within California are exempt only when they are used principally as one part of a journey in interstate or foreign commerce. Added subdivision (a) (1) (A) to clarify that watercraft used principally in intrastate commerce are subject to tax. Added subdivisions (a) (1) (B), (a) (1) (C) and (a) (1) (D) which establish a rebuttable presumption that watercraft is not regularly used in interstate commerce if certain prescribed conditions are not met. Added subdivision (a) (1) (E) to explain what gross receipts shall be used to determine if watercraft is regularly used in the transportation for hire of property or persons. In subdivision (b) (1), clarifies the fact that the principal use test and minimum gross receipts test must be considered together when determining whether watercraft is principally used in interstate or foreign commerce. In subdivision (d) deleted the "Diesel Fuel Used In Operating Watercraft" and the Diesel Fuel Exemption Certificate provisions.

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Amended June 2, 1988, effective August 26, 1988. In subdivision (d), added provisions that explain that diesel fuel used in operating watercraft in commercial deep sea fishing operations by certain persons is exempt from tax.

Amend August 27, 1992, effective January 20, 1993. Paragraph (a) (2) increased the minimum amount of gross receipts from commercial fishing operations necessary to be considered regularly engaged in the business of commercial deep-sea fishing from \$5,000 a year to \$20,000 a year. Eliminated the Diesel Fuel Exemption Certificate and added two rebuttable presumptions to the Watercraft Exemption Certificate.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*



### WATERCRAFT EXEMPTION CERTIFICATE

I HEREBY CERTIFY: That the watercraft identified below is used

- (     ) In the transportation by water of persons or property for hire in interstate or foreign commerce\*;
- (     ) In commercial deep sea fishing operations and the watercraft is used outside the territorial waters of this state;
- (     ) In transporting for hire persons or property to vessels or offshore drilling platforms located outside the territorial waters of this state;

That all tangible personal property which I shall purchase from \_\_\_\_\_

\_\_\_\_\_ described on purchase orders, or invoices, as tax exempt under Section 6368 of the Sales and Use Tax Law and Regulation 1594 consists of watercraft or tangible personal property becoming a component part of watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, which watercraft will be used principally in the operation checked above.

***\*Note:** Revenue and Taxation Code section 6368 (b) creates a rebuttable presumption that you are not regularly engaged in commercial deep-sea fishing if your gross receipts from such operations are less than twenty thousand dollars (\$20,000) a year. Revenue and Taxation Code section 6368 (c) creates a rebuttable presumption that the watercraft is not regularly used in interstate or foreign commerce if your yearly gross receipts from such operations do not exceed 10 percent of the cost of the watercraft or twenty-five thousand dollars (\$25,000), whichever is less.*

Date Certificate Given \_\_\_\_\_

Purchaser \_\_\_\_\_

(COMPANY NAME)

Address \_\_\_\_\_

Signed By \_\_\_\_\_

(SIGNATURE OF AUTHORIZED PERSON)

\_\_\_\_\_  
(PRINT OR TYPE NAME)

Title \_\_\_\_\_

(OWNER, PARTNER, PURCHASING AGENT, ETC.)

Seller's Permit No. (If any) \_\_\_\_\_

and/or

Fish and Game License No. \_\_\_\_\_

Names of Watercraft for which certifying purchaser will be making purchases:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_